

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Performance Measurements and Standards for)	
Interstate Special Access Services)	CC Docket No. 01-321
)	
Petition of U S West, Inc., for a Declaratory)	
Ruling Preempting State Commission)	CC Docket No. 00-51
Proceedings to Regulate U S West's Provision)	
of Federally Tariffed Interstate Services)	
)	
Petition of Association for Local)	
Telecommunications Services for Declaratory)	CC Docket Nos. 98-147, 96-98, 98-141
Ruling)	
)	
Implementation of the Non-Accounting)	
Safeguards of Sections 271 and 272 of the)	CC Docket No. 96-149
Communications Act of 1934, as amended)	
)	
2000 Biennial Regulatory Review -)	
Telecommunications Service Quality)	CC Docket No. 00-229
Reporting Requirements)	
)	
AT&T Corp. Petition to Establish)	
Performance Standards, Reporting)	
Requirements, and Self-Executing Remedies)	RM 10329
Need to Ensure Compliance by ILECs with)	
Their Statutory Obligations Regarding Special)	
Access Services)	

COMMENTS OF PAETEC COMMUNICATIONS, INC.

PaeTec Communications, Inc. (“PaeTec”), by its counsel, hereby respectfully submits its Comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) in the above referenced dockets. PaeTec believes that the Commission should adopt interstate special access measures and standards that are equivalent to those that it establishes in the *UNE*

*Measurements and Standards*¹ proceeding. These special access standards may be eliminated for an individual ILEC when that ILEC has consistently met the UNE measurement standards for a period of one year.

I. BACKGROUND

PaeTec is a full-service, facilities-based competitive local exchange carrier (“CLEC”) that provides a broad range of telecommunications services nationally to business and residential customers. PaeTec primarily obtains access to its end user customers by purchasing from ILECs special access circuits that are equivalent to UNE loop and transport combinations. PaeTec purchases special access rather than UNEs because experience has shown that ILEC special access operational support systems and processes -- although burdened with ordering confusion, provisioning delays and maintenance failures in their own right – are still better than ILEC operational support systems and processes related to UNEs, particularly UNE combinations.

Consequently, PaeTec’s deployment strategy relies on special access circuits. Any regulatory scheme that would improve the provisioning of special access circuits would improve PaeTec’s ability to respond to customer requests and take advantage of market opportunities, thus enhancing facilities-based competition overall.

II. RESPONSE TO NPRM SECTION IV.A. – PERFORMANCE MEASUREMENTS AND STANDARDS.

In paragraph 15 of the NPRM, the Commission seeks comment on whether special access performance standards should be applied to both ILECs and CLECs, or only ILECs. PaeTec believes that the essential purpose of establishing performance standards is not to address non-

¹ Performance Measurements and Standards for Unbundled Network Elements and Interconnection, CC Docket No. 01-318, *Notice of Proposed Rulemaking*, FCC 01-331 (rel. Nov. 19, 2001)(“*UNE Measurements and Standards*”).

existent market failures, as implied by some,² but instead to overcome the “bottleneck status” of ILECs that results from their monopoly control of the facilities dedicated to serving individual customers. Since this bottleneck concern does not apply to CLECs, regulatory intervention by establishing standards is only justified in the provisioning of ILEC special access. Moreover, these standards should apply to all ILECs uniformly.

PaeTec also concurs in the Commission’s proposal that the same standards that apply to UNEs also apply to special access provisioning, as well as other special access operational support system processes.³ As explained above, PaeTec uses special access as a substitute for UNEs because it has found ILEC special access operational support processes to be more efficient (albeit more costly to CLECs) than the operational support system processes of equivalent UNEs. To the extent that a specific element of a special access circuit is comparable to a particular UNE, then the performance standards attached to each element should be identical.

The most significant benefit of this comparability will be that ILECs will lose any incentive to either initiate or permit the type of “strategic incompetence” in provisioning UNEs that, for expediency’s sake, motivates CLECs to purchase more expensive special access instead of TELRIC-priced UNEs.

III. RESPONSE TO NPRM SECTION IV.C. – IMPLEMENTATION

In paragraph 20 of the NPRM, the Commission seeks comment on whether it should set a sunset date for any reporting requirements that it might establish. Specifically, it asks whether it should establish either a date certain or a “trigger event.”

² NPRM para. 15.

³ NPRM para. 16.

PaeTec believes that establishing a date certain will provide no incentive for the ILECs to meet special access performance standards. In fact, it might have the perverse effect of motivating the ILECs to procrastinate in anticipation of the sunset date. Instead, ILEC cooperation can be best ensured by establishing full compliance with UNE performance standards. Once ILECs have met the requirements established in the *UNE Measurements and Standards* proceeding, the trigger event will have been met and UNEs will be the most competitive and favorable solution (price and provisioning factors considered). Thus, special access standards will no longer be necessary.

This sunset event should be triggered for individual ILECs after no less than four consecutive calendar quarters of meeting all of the Commission-established UNE standards. Moreover, once an ILEC has been relieved of its special access reporting requirements, these requirements should be reimposed if the ILEC subsequently fails to meet the UNE standards for more than two consecutive calendar quarters.

IV. CONCLUSION

Special access is an important element of providing facilities-based competitive services to end users when UNE-based solutions prove impractical. The Commission should establish and enforce performance measurements and standards as described in the foregoing Comments.

Respectfully submitted,

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